

The Agenda document below includes hyperlinks (docket numbers highlighted in blue) that enable the user to view agenda backup documents [documents pertaining to a particular matter that have been filed with the Office of the Chief Clerk (OCC)]. To view all agenda backup in person including those documents not found in the hyperlinks below, please visit OCC at 12100 Park 35 Circle, Building F, Suite 1101 (30 TAC § 1.10).

Updates to backup documents will be noted by a purple indicator. Please note that some documents such as those of irregular size (i.e. oversized maps) cannot be viewed here and that color documents will be posted here in black and white. Finally, parties are still required to submit an original and 7 copies of documents filed for Commission consideration (30 TAC § 1.10(d)).

Chairman Bryan W. Shaw, Ph.D., P.E.
Commissioner Toby Baker
Commissioner Jon Niermann

AGENDA

August 2, 2017

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.
12100 Park 35 Circle
Room 201S, Bldg. E

PROPOSALS FOR DECISION

Item 1 [**TCEQ Docket No. 2015-1656-PST-E; SOAH Docket No. 582-16-5120.**](#)

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order assessing administrative penalties against THE DYNAMITE INC dba Country Food Mart in Montgomery County, Texas; RN102271053; regarding petroleum storage tank violations pursuant to Tex. Water Code ch. 26 and the rules of the Texas Commission on Environmental Quality. The Commission will also consider the record, timely related filings, exceptions and replies.
(Adam Taylor)

Adopt the Administrative Law Judge's Proposed Order; Adopt the Executive Director's Exceptions as agreed to by the ALJ in her reply letter; and Correct the Respondent's name throughout the Order to be consistent with the name in paragraph two of the Executive Director's Preliminary Report and Petition. TB/JN; all agree.

Item 2 **TCEQ Docket No. 2016-0666-IWD; SOAH Docket No. 582-16-5474.**

Consideration of the Administrative Law Judge's Proposal for Decision and Proposed Order regarding the Application of Clean Harbors San Leon, Inc., for a Major Amendment of Texas Pollutant Discharge Elimination System Permit No. WQ0004086000. The existing facility is located at 2700 Avenue S, San Leon, in Galveston County. The Commission will also consider timely public comments and the Executive Director's Response to Comments; the record, timely related filings, exceptions and replies. (Ashley McDonald)

Adopt the Administrative Law Judge's Proposed Order with the following changes: 1) Adopt the Executive Director's Exceptions to Findings of Fact Nos. 1, 6 and 12 as agreed to by the Administrative Law Judge in her reply letter; for addressing transcript costs, 2) Adopt the applicant's proposal to modify Finding of Fact No. 34 to identify the Razz Halili Trust as a Trust and not an individual; 3) Adopt the applicant's proposed finding stating that Clean Harbors incurred \$2,445.00 for costs in preparing the transcript of the hearing on the merits; and 4) Modify Conclusion of Law No. 12 to correct the typographical error in the aligned protestants allocation by removing "1%" and replacing it with "15%"; and for addressing minor typographical concerns, 5) Adopt the applicant's proposed change to Finding of Fact No. 25 to replace "their" with "his;" and finally, 6) Add an Ordering Provision that states "the Commission Modifies and Adopts the Executive Director's Response to Comment to the extent necessary to be consistent with this Order." JN/TB; all agree.

DISTRICTS MATTER

Item 3 **Docket No. 2017-0908-DIS.**

Consideration and hearing on a petition from HP Gibbs, LP for creation of Northlake Municipal Management District No.1 of Denton County ("District"), pursuant to Article III, §§ 52 and 52(a) and Article XVI, § 59 of the Texas Constitution; Chapter 375, Texas Local Government Code; and Chapter 49, Texas Water Code. The proposed District is comprised of approximately 386.8295 acres of land within the corporate limits of the Town of Northlake, Denton County, Texas. (Pirainder Lall, Kayla Murray)

Find that the petition conforms to the requirements of Section 375.022 and that the proposed District is feasible, necessary and would benefit the public; Grant the petition to create the Northlake Municipal Management District No.1; and Issue an Order that incorporates the above findings and the two statements recommended by

the ED except that in the second statement recommended by the ED, the second “and” should be changed to “or.” TB/JN; all agree.

MISCELLANEOUS MATTER

Item 4 **[Docket No. 2017-0907-MIS.](#)**

Consideration of gifts and donations of \$500.00 or more in value given to the TCEQ, submitted for approval in accordance with Chapter 575 of the Government Code, concerning acceptance of gifts by certain state agencies. (Elizabeth West)

Approve issuance of the Resolution that acknowledges the Executive Director's acceptance of the gifts and donations contained in the TCEQ Interoffice Memorandum to the Commissioners dated July 14, 2017 Docket Number 2017-0907-MIS. JN/TB; all agree.

AIR QUALITY ENFORCEMENT AGREED ORDERS

Item 5 **[Docket No. 2016-1778-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Chevron Phillips Chemical Company LP in Brazoria County; RN100825249; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Raime Hayes-Falero, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 6 **[Docket No. 2017-0123-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Hayward Baker, Inc. in Collin County; RN109241372; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Raime Hayes-Falero, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 7 **[Docket No. 2015-0096-AIR-E.](#)**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Pasadena Refining System, Inc in Harris County; RN100716661; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Rajesh Acharya, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 8 [**Docket No. 2016-1939-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Phillips 66 Company in Brazoria County; RN101619179; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Carol McGrath, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 9 [**Docket No. 2016-0645-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Targa Pipeline Mid-Continent WestTex LLC in Reagan County; RN100213701; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (David Carney, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 10 [**Docket No. 2016-1322-AIR-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of The Chemours Company FC, LLC in Harris County; RN108202599; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Raime Hayes-Falero, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS

Item 11 [**Docket No. 2016-1501-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Graham in Young County; RN101916880; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Caleb Olson, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 12 [**Docket No. 2011-2180-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties against the City of Hackberry in Denton County; RN102077054; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Melissa Castro, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 13 [**Docket No. 2017-0149-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Queen City in Cass County; RN101918910; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Ariel Ramirez, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 14 [**Docket No. 2015-0916-MWD-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Delta County Municipal Utility District in Delta County; RN101608990; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission

on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Had Darling, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

Item 15 **Docket No. 2015-1499-MWD-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Marc Roger Meeker in Montgomery County; RN101512291; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Ronica Rodriguez, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS

Item 16 **Docket No. 2015-1394-PST-E.**

Consideration of an Agreed Order assessing administrative penalties against St. Mina Investments, LLC d/b/a Texas Food Mart in Tarrant County; RN101541555; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jake Marx, Janice Hernandez)

Adopt the Agreed Order. TB/JN; all agree.

Item 17 **Docket No. 2016-2000-PST-E.**

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of Lufkin Travel Plaza LLC in Angelina County; RN103730917; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (John Fennell, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS

Item 18 [**Docket No. 2017-0197-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of SHRI SWAMIKRUPA, INC. in Colorado County; RN101442291; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341, Tex. Water Code ch. 5, and the rules of the Texas Commission on Environmental Quality. (Michaelle Garza, Michael Parrish)

Continue to the August 23, 2017 Open Meeting. TB/JN; all agree.

Item 19 [**Docket No. 2016-2025-PWS-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of THE BURKE FOUNDATION in Hays County; RN108344714; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Jason Fraley, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

WATER QUALITY ENFORCEMENT AGREED ORDER

Item 20 [**Docket No. 2016-2043-WQ-E.**](#)

Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the City of Burleson in Johnson County; RN101387264; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Larry Butler, Michael Parrish)

Adopt the Agreed Order. TB/JN; all agree.

PETITION FOR RULEMAKING

Item 21 [**Docket No. 2017-0820-PET.**](#)

Consideration of a petition for rulemaking under Section 20.15 of 30 Texas Administrative Code (TAC) Chapter 20, Rulemaking. The petition was filed with the Texas Commission on Environmental Quality (commission) on June 5, 2017 by Ben Dickson, P.E. (petitioner). The petitioner requested that the commission amend 30 TAC Chapter 117,

Control of Air Pollution from Nitrogen Compounds, Subchapter B, Combustion Control at Major Industrial, Commercial, and Institutional Sources in Ozone Nonattainment Areas, Divisions 3 and 4, Houston-Galveston-Brazoria Ozone Nonattainment Area Major Sources and Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area Major Sources. The petitioner is requesting to revise Sections 117.310(f) and 117.410(f) by deleting both rule subsections in their entirety thereby eliminating the operating restrictions for stationary diesel and dual-fuel engines started or operated for testing or maintenance between the hours of 6:00 a.m. and noon. The petitioner states that the operating restrictions do not protect the environment, are inadequately explained, are burdensome on personnel and contractors, and require burdensome and unnecessary recordkeeping. (Javier Galván, Sierra Redding) (Project No. 2017-029-PET-NR)

Deny the petition for rulemaking filed by Ben Dickson, P.E. concerning the amendments to 30 TAC Chapter 117 Control of Air Pollution from Nitrogen Compounds for the reasons stated in the Executive Director's response memorandum; and Issue the Executive Director's Proposed Order, but that we modify the decision to deny the petition by adding an additional sentence at the end of the second paragraph of the Order which states "The Commission believes the requested revision interferes with attainment and reasonable further progress requirements for the HGB and DFW state implementation plans and is also inconsistent with Chapter 117, Subchapter D rules as was expressed in the Executive Director's response memorandum to the petition dated July 14, 2017." JN/TB; all agree.

PUBLIC COMMENT SESSION

Item 22 Docket No. 2017-0005-PUB.

The Commission will receive comments from the public on any matters within the jurisdiction of the TCEQ in accordance with Texas Water Code Section 5.112, with the exception of pending permitting matters or other contested cases which are subject to the ex parte prohibition found in Texas Government Code Section 2001.061. In the interest of time, speakers will be limited to three minutes each, with the total time for public comment limited to one hour. Please note that the Commission's discussion of subjects for which public notice has not been given are limited to statements of specific factual responses and recitation of existing policy.

No action taken.

EXECUTIVE MEETING

Item 23 **Docket No. 2017-0001-EXE.**

The Commission will conduct a closed meeting to receive legal advice from its attorney(s) and will discuss pending or contemplated litigation, and/or settlement offers, as permitted by Section 551.071 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 24 **Docket No. 2017-0002-EXE.**

The Commission will conduct a closed meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, General Counsel, Chief Clerk, Public Interest Counsel, or Chief Auditor as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 25 **Docket No. 2017-0003-EXE.**

The Commission will conduct a closed meeting to discuss the employment, evaluation, reassignment, duties, discipline or dismissal of a specific Commission employee(s) as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. The Commission may also meet in open meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

The Commission did not meet in Executive Meeting.

Item 26 **Docket No. 2017-0004-EXE.**

The Commission will conduct a closed meeting to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code. The Commission may also meet in open

meeting to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

The Commission did not meet in Executive Meeting.

PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST SIX (6) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.

SECTION 46.035 OF THE TEXAS PENAL CODE PROHIBITS HANDGUN LICENSEES FROM CARRYING THEIR HANDGUNS AT GOVERNMENT MEETINGS SUCH AS THIS ONE. THIS PROHIBITION APPLIES TO BOTH CONCEALED CARRY AND OPEN CARRY BY HANDGUN LICENSEES.

REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. AND WILL CONTINUE UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT:
[HTTP://WWW.TEXASADMIN.COM/tceqa.shtml](http://www.texasadmin.com/tceqa.shtml)**

/s/ Barham Richard
Assistant General Counsel
Barham Richard

08/07/2017
Date